

1 Daniel F. Polsenberg
Nevada Bar No. 2376
2 J Christopher Jorgensen
Nevada Bar No. 5382
3 Abraham Smith
Nevada Bar No. 13250
4 LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Pkwy, Suite 600
5 Las Vegas, NV 89169
Tel: 702.949.8200
6 E-mail: dpolsenberg@lrrc.com
E-mail: cjorgensen@lrrc.com
7 E-mail: asmith@lrrc.com

8 *Co-Counsel for Plaintiff*
United Automobile Insurance Company

9
10 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

11 UNITED AUTOMOBILE INSURANCE
COMPANY,

12 Plaintiff,

13 vs.

14 THOMAS CHRISTENSEN, an individual; E.
15 BREEN ARNTZ, an individual; and GARY
LEWIS, an individual,

16 Defendants.

Case No.: 2:18-cv-02269-JAD-BNW

17
18 **JOINT STATUS REPORT**
REGARDING STAY OF DISCOVERY
(ECF NO. 40)

19 United Automobile Insurance Company (“Plaintiff”) and Thomas Christensen, E. Breen
20 Arntz and Gary Lewis (“Defendants”), submit this Joint Status Report Regarding Stay of
Discovery (ECF No. 40).

21
22 **INTRODUCTION**

23 Plaintiff filed its Complaint on November 28, 2018. (ECF No. 1) Defendant
24 Christensen filed a Motion to Dismiss on February 22, 2019. (ECF No. 5) Defendant Arntz
25 filed a Joinder to Christensen’s Motion to Dismiss on March 1, 2019. (ECF No. 9) Defendant
26 Lewis filed a Joinder to Christensen’s Motion to Dismiss on March 1, 2019 (ECF No. 10) and
27 an additional Motion to Dismiss on March 1, 2019. (ECF No. 11) This Court denied the
Motions to Dismiss on September 13, 2019 (ECF No. 32). As part of that Order, this Court
28 ordered the parties to submit a Discovery Plan and Scheduling Order by September 27, 2019.

1 On September 27, 2019, the parties jointly sought a stay of discovery (ECF No. 33)
2 because this lawsuit is related to a much larger dispute in cases (some of which are pending)
3 in the Eighth Judicial District Court, Case No. A-07-549111-C (consolidated with A-18-
4 772220-C); the Nevada Supreme Court, Case Nos. 79487, 78243, 78085, and 70504; the Ninth
5 Circuit Court of Appeals, Case No. 13-17441; and another case in California.

On October 4, 2019, this Court granted the Stipulation to Stay Proceedings (ECF 40). Defendants Christensen, Lewis and Arntz filed their Answers to Complaint. (ECF Nos. 34, 36 and 39).

9 On October 10 and 11, 2019, Defendant Christensen filed Motions for Reconsideration
10 of this Court’s September 13, 2019 (ECF No. 10) Order. (See ECF Nos. 40 and 41). On
11 October 11, 2019, Lewis filed a Joinder to the Motion for Reconsideration (ECF No. 42). On
12 October 15, 2019, Arntz filed a Joinder to the Motion for Reconsideration (ECF No. 43). On
13 October 24, 2019 Plaintiff opposed the Motion for Reconsideration and Joinders (ECF No. 46).
14 On October 31, 2019, Christensen filed his Reply in Support of Reconsideration (ECF No. 47).
15 On December 18, 2019 Christensen sought leave to file supplemental authorities in support of
16 his Motion for Reconsideration to this Court. (ECF Nos. 48 and 49). The parties await this
17 Court’s ruling on the Motion for Reconsideration.

THE OTHER RELATED CASES

In July 2019, the Nevada District Court denied UAIC's motion for relief from an amended judgment in Case No. A-07-549111-C. That decision was appealed to the Nevada Supreme Court in Case No. 79487. On September 20, 2019, the Nevada Supreme Court, in Case No. 70504, issued its Opinion regarding two certified questions (ECF Nos. 37, 38, Notice of Supreme Court Decision). The certified questions were from the Ninth Circuit, pertaining to the matters pending in Case No. [13-17441](#). A petition for rehearing was filed with the Nevada Supreme Court on October 8, 2019, which was denied. Lewis filed a Motion to Supplement the Ninth Circuit Record on Appeal on November 11, 2019 (Doc. No. 67). On December 23, 2019, UAIC Opposed the Motion to Supplement the Record (Doc. No. 75). On December 30, 2019, Defendants Lewis and non-party to the case before this Court Nalder filed their Reply In

1 Support Of Motion To Supplement Record. (Doc. No. 76) The Ninth Circuit Court has not
2 ruled on the Motion to Supplement Record.

3 On February 7, 2019, Lewis and Nalder filed a Writ Petition with the Nevada Supreme
4 Court, based on the intervention of UAIC in Nevada State Court case A-07-549111-C. The
5 Writ Petition was accepted and has been fully briefed, but not yet decided. On March 5, 2019,
6 Lewis filed another Writ Petition to the Nevada Supreme Court based on the consolidation of
7 Nevada State Court cases A-07-459111-C and A-18-772220-C. The Writ Petition was
8 accepted and has been fully briefed, but not yet decided.

9 On August 21, 2019, UAIC filed a Notice of Appeal to the Nevada Supreme Court
10 contesting the State Court's refusal to set aside the amended judgment against Gary Lewis. A
11 Nevada Supreme Court Mediation was held in November 2019 but failed to resolve the
12 Appeal. UAIC has requested two extensions of time to file the opening brief, most recently
13 asking for an extension of time through April 13, 2020. No ruling on the request has been
14 made.

15 On March 4, 2020, the State Court, in Case No. A-07-549111-C lifted its prior stay
16 order, instituted a supplemental briefing schedule, and set a hearing date of May 20, 2020 to
17 decide pending motions. Lewis believes motion practice therein is expected to resume and
18 resolve critical issues. UAIC believes all pending issues will be resolved at the Ninth Circuit
19 Court level.

20 **JOINT REQUEST TO CONTINUE STAY**

21 The parties believe that the stay of discovery in this proceeding should remain in place
22 pending further rulings, both in this case and in the other courts, that may resolve the issues in
23 both this case and the pending state court case or, at a minimum, pave the way for dispositive
24 motions. The parties request a continued stay of discovery with a status report to be filed with
25 the Court 90 days from today's date (i.e. **June 26, 2020**) regarding developments from other
26 courts considering matters that may affect this case.

1
2 DATED this 26th day of March, 2020.
3

4 **ATKIN WINNER & SHERROD**
5

6 By: /s/ Matthew J. Douglas
7 Matthew John Douglas
8 Thomas E. Winner
9 1117 South Rancho
10 Las Vegas, Nevada 89102
11

12 *Attorneys for Plaintiff*
13

14 DATED this 26th day of March, 2020.
15

16 **SANTORO WHITMIRE**
17

18 By: /s/ James W. Whitmire
19 James E. Whitmire (#6533)
20 10100 W. Charleston Blvd., Suite 250
21 Las Vegas, Nevada 89135
22

23 *Attorneys for Defendant Thomas Christensen*
24

25 DATED this 26th day of March, 2020
26

27 **LEWIS ROCA ROTHGERBER
28 CHRISTIE LLP**

29 By: /s/ J Christopher Jorgensen
30 Daniel F. Polsenberg (# 2376)
31 J Christopher Jorgensen (# 5382)
32 Abraham Smith (# 13250)
33 3993 Howard Hughes Pkwy, Suite 600
34 Las Vegas, NV 89169
35

36 *Co-Counsel for Plaintiff United
37 Automobile Insurance Company*
38

39 DATED this 26th day of March, 2020.
40

41 **MARQUIS AURBACH COFFING**
42

43 By: /s/ Brian R. Hardy
44 Terry A. Coffing (#4949)
45 Brian R. Hardy (#10068)
46 10001 Park Run Drive
47 Las Vegas, Nevada 89145
48

49 *Attorneys for Defendant E. Breen Arntz*
50

51 **IT IS SO ORDERED:**
52

53 
54 UNITED STATES MAGISTRATE/DISTRICT
55 COURT JUDGE
56

57 DATED: 3/27/202
58

CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2020, I caused a true and accurate copy of the foregoing document entitled **JOINT STATUS REPORT REGARDING STAY OF DISCOVERY (ECF NO. 40)** to be filed with the Clerk of the Court via the CM/ECF system, which will send an electronic copy to the following:

Janeen V. Isaacson
Lipson Neilson P.C.
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
nvecf@lipsonneilson.com

Attorneys for Defendant Gary Lewis

/s/ Annette Jaramillo
An Employee of Lewis Roca
Rothgerber Christie LLP

3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

Lewis Roca
ROTHGERBER CHRISTIE